IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE S.SIRI JAGAN

FRIDAY, THE 30TH NOVEMBER 2007 / 9TH AGRAHAYANA 1929

WP(C).No. 33647 of 2003(E)

PETITIONER:

P.P.LAKSHMANAN, RETIRED P.D.TEACHER, GOVERNMENT U.P.S., PUZHATHI, "VARSHA", CIVIL STATION P.O., KANNUR-2.

BY ADV. SRI.M.VIJAYAKUMAR

RESPONDENTS:

1. **STATE OF KERALA, REPRESENTED BY ITS SECRETARY TO GOVERNMENT, GENERAL EDUCATION DEPARTMENT, TRIVANDRUM.**
2. **DIRECTOR OF PUBLIC INSTRUCTION, THIRUVANANTHAPURAM.**
3. **DEPUTY DIRECTOR OF EDUCATION, KANNUR.**
4. **ASSISTANT EDUCATIONAL OFFICER, PAPPINISSERY.**

BY GOVERNMENT PLEADER SRI.T.T.MAHMOOD

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 30/11/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONERS EXHIBITS:

EXT.P1: COPY OF THE ORDER No.B3-11877/68 DATED 14.3.1968.

EXT.P2: COPY OF THE RELEVANT EXTRACTN OF SERIVE BOOK.

EXT.P3: COPY OF THE ORDE G.O.(MS) 16/76/G.Edn. DATED 10.1.1975.

EXT.P4: COPY OF THE ORDER G.O.(Rt) No.3600/866/GE DATED 4.10.1989.

EXT.P5: COPY OF THE REPRESENTATION DATED 23.3.1991.

EXT.P6: COPY OF REPRESENTATION BEFORE THE 1ST RESPONDENT.

EXT.P7: COPY OF THE ORDER NO.12707/P3/G.Edn. DATED 12.3.1996.

EXT.P8: COPY OF THE JUDGMENT IN O.P.No.13062/96 OF THIS HON'BLE COURT DATED 17.2.2003.

EXT.P9: COPY OF THE PAY PARTICULARS IN RESPECT OF THE PETITIONER.

EXT.P10: COPY OF THE ORDER G.O.(Rt) No.3292/03/G.Edn. DTD. 16.8.2003.

TRUE COPY

P.A.TO JUDGE

S.SIRI JAGAN,J

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W.P.(C).No.33647 of 2003

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Dated this the 30th day of November, 2007

JUDGMENT

The petitioner started service as a Primary Department Teacher on 7.11.1964. As evidence by Ext.P1 he had worked as a teacher-in-charge of the school from 27.8.1968 to 16.10.2969. According to the petitioner by virtue of the same he is entitled to the benefit of Ext.P3 order by which the Government directed that teachers who were posted as teachers-in-charge on or before 17.6.1969 and who by virtue of their district wise seniority among P.D. Teachers and their qualifications were entitled to promotion as Primary Headmaster on 1.6.1973. Seeking this benefit the petitioner filed several representations and ultimately by Ext.P7 dated 12.3.1996, the same was rejected. The petitioner challenged Ext.P7 before this Court in O.P.No.13062/96, in which by Ext.P8 judgment the Government was directed to reconsider the matter with reference to Ext.P3 order. Pursuant to the same, Ext.P10 order was passed, wherein claim of the petitioner was again rejected, on the ground that the petitioner had not stated as to whether he was in

receipt of supervision allowance during the period in question and that at this distance of time it is not practical to verify records in this regard. The petitioner challenges Ext.P10 on the ground that the reasons mentioned therein are unsustainable. According to him the fact that he had stated that he was receiving supervision allowances is clear from Ext.P8 judgment, wherein his averment that he had been in receipt of supervision allowance is specifically quoted. He further submits that in view of Ext.P9 certificate issued by the Headmistress of the School, it is clear that he was in fact drawing supervisory allowance.

2. The learned Government Pleader on the other hand submits that in view of the long passage of time, it is not possible now to verify as to whether the petitioner was in fact receiving the supervision allowance.

3. I have considered the rival contentions in detail. Going by Ext.P10, the only ground on which the petitioner has been denied benefit is that he has not stated whether he was in receipt of supervision allowance during the period and that at this distance of time it is not practical to verify records in this regard. From a reading of Ext.P8, it is very clear that one of the

contentions of the petitioner in that writ petition was that he had been receiving supervisory allowance. Further, Ext.P9 would also show that he was drawing supervisory allowances for the months of October 1968, November 1968, December 1968 and January 1969. There is no counter affidavit filed by the respondents in this case. As such it cannot now be disputed that by virtue of Exts.P8 and P9, the petitioner has sufficiently disproved the reasons mentioned in Ext.P10 for denying him the benefit of Ext.P3. Accordingly Ext.P10 is quashed and the first respondent is directed to pass fresh orders directing grant of benefits conferred by Ext.P3 to the petitioner since he had sufficiently proved that he is entitled to the benefit conferred by Ext.P3. Orders in this regard shall be passed and arrears, if any, payable to the petitioner by virtue of that benefit including that of retirement benefits accordingly calculated, shall be disbursed within a period of two months from the date of receipt of a copy of this judgment.

The writ petition is disposed of accordingly.

S.SIRI JAGAN, JUDGE

dvs